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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MAR 17 1997

Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Implementation of the)	CC Docket No. 96-115
Telecommunications Act of 1996:)	DA 97-385
)	
Telecommunications Carriers' Use)	
of Customer Proprietary Network)	
Information and Other)	
Customer Information)	

Comments
of
The Southern New England Telephone Company

The Southern New England Telephone Company (SNET), hereby files responses to the questions raised in the above captioned matter, pursuant to the Public Notice released February 20, 1997 (Public Notice) by the Federal Communications Commission's (Commission's) Common Carrier Bureau (Bureau).¹ SNET limits its response to questions raised in the Public Notice that are of particular significance to SNET as it markets a full array of products and services to its Connecticut customers, while protecting customer sensitive information.

¹ Public Notice, CC Docket No. 96-115, DA 97-385, Common Carrier Bureau Seeks Further Comment On Specific Questions In CPNI Rulemaking., released February 20, 1997.

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Background

The Bureau's Public Notice seeks further comment in the CPNI proceeding to supplement the record on issues relating to the Commission's recently released Electronic Publishing Order² and Non-Accounting Safeguards Order.³ These orders dealt primarily with the provision of Bell Operating Companies' (BOCs') service, while the issues related to the marketing of services were deferred to the CPNI proceeding.

SNET is an independent telephone company serving Connecticut. Although SNET is not a BOC, the resolution of the questions raised in the Public Notice are of interest and concern to BOCs and independents alike and the resolution of certain questions will directly affect how all telecommunications carriers, including SNET, markets services to their customers. Accordingly, SNET respectfully submits its comments to those questions as follows.

1. Interplay Between Section 222 and Section 272

A. Using, Disclosing, and Permitting Access to CPNI.

² Implementation of the Telecommunications Act of 1996: Telemessaging, Electronic Publishing, and Alarm Monitoring Services, CC Docket No. 96-152, First Report and Order and Further Notice of Proposed Rulemaking, FCC 97-35 (rel. February 7, 1997) (Electronic Publishing Order). In this Order the Commission adopted rules and policies governing BOC provision of electronic publishing under Section 274 of the Telecommunications Act.

³ Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended. CC Docket No. 96-149, First Report and Order and Further Notice of Proposed Rulemaking, FCC 96-489 (rel. December 24, 1996) (Non-Accounting Safeguards Order). In this Order, the Commission adopted rules and policies governing BOC provision of certain services through Section 272 affiliates.

3. If a telecommunications carrier may disclose a customer's CPNI to a third party only pursuant to the customer's "affirmative written request" under Section 222(c)(2), must carriers, including interexchange carriers and independent local exchange carriers (LECs), treat their affiliates and other intra-company operating units (such as those that originate interexchange telecommunications services in areas where the carriers provide telephone exchange service and exchange access) as third parties for which customers' affirmative written requests must be secured before CPNI can be disclosed? Must the answer to this question be the same as the answer to question 2?

SNET Response

No. A telecommunications carrier's affiliates should not be treated as third parties for the disclosure of CPNI. While it is appropriate that a customer's affirmative written request be required before disclosing CPNI to any third party, a telephone company's affiliate is not a third party and there should be no such requirement to obtain an affirmative written request to share CPNI. Customers expect that the telecommunications carrier with which they have an ongoing relationship will inform them of new products and services as they become available. One of the major findings in a recent customer survey sponsored by Pacific Telesis Group,⁴ is that the public favors businesses informing their customers about new services. Further, and specifically related to services provided by telephone companies, survey respondents said that they would be interested in learning from their local telephone company about new telephone services. Most importantly, the survey results show that nearly two thirds of the respondents find it acceptable for their local telephone company to look up their

⁴ Public Attitudes Toward Local Telephone Company Use of CPNI, Report of a National Opinion Survey Conducted November 14-17, 1996, by Opinion Research Corporation, Princeton, N.J. and Professor Alan F. Westin, Columbia University, sponsored by Pacific Telesis Group, (National Opinion Survey)).

records and offer them additional services. This approval percentage climbs to a significant 82% when respondents are offered an “opt-out”--the ability to control access of CPNI upon customer request.⁵

Section 222 of the Telecommunications Act was intended primarily to protect customer privacy, not to preclude telecommunications carriers from sharing CPNI within the operating units and affiliates of the carrier. To protect the integrity of existing business relationships, and to avoid unnecessary customer confusion, the Commission need not impose an affirmative written customer requirement for the use of CPNI between the carrier or LEC and its own customers. Allowing intra-company and affiliate use of customer CPNI best enables all providers of service, including telecommunications carriers, to meet customers' expectations for notification about innovative products and services designed to meet their needs.

B. Customer Approval

5. If sections 222(c)(1) and 222(c)(2) require customer approval, but not an affirmative written request, before a carrier may use, disclose, or permit access to CPNI, must each carrier, including interexchange carriers and independent LECs, disclose CPNI to unaffiliated entities under the same standard for customer approval as is permitted in connection with their affiliates and other intra-company operating units?

SNET Response

No. There is an existing business relationship between the carrier or LEC and its affiliates and other intra-company operating units that simply does not

⁵ National Opinion Survey, page 4-8.

exist with unaffiliated entities. This difference dictates that a higher standard, by means of a written customer request, be required for the disclosure of CPNI to a person or third party designated by the customer. This added protection will ensure that the customer will not be subjected to unwanted marketing calls from unscrupulous firms that have been able to obtain CPNI by unapproved oral requests.

All carriers need the ability to obtain customer consent for disclosure of CPNI to affiliates and intra-company operating units. A reasonable approach to obtaining this customer consent is through a "notice and opt-out procedure." An opt-out process -- customer notice of intended information disclosures and/or uses and an opportunity for the customer to indicate the customer's disapproval of the proposed disclosure and/or its uses--is a legitimate, customary and appropriate process when the information at issue is relatively non-sensitive.⁶ A notice at regular intervals would give consumers a convenient opportunity to control access to their CPNI. The notice and opt-out procedure preserves customer privacy by limiting access to CPNI to those who want such limitations and enhances consumer choice to those who want information regarding integrated or innovative telecommunications services.

Customers expect carriers to have the ability to disclose CPNI to their affiliates and operating units, and a notice and opt-out procedure in this context fully safeguards expectations of privacy and preserves operating efficiencies.

⁶ Privacy & Legislative Associates, Inc. analysis of privacy issues, submitted on behalf of Pacific Telesis Group, January 23, 1997.

SNET agrees with the requirement for written consent prior to disclosure of CPNI to third parties because customers have a heightened privacy need that requires heightened security of CPNI. However, customers that have an existing business relationship with a company have tacitly authorized use of their CPNI, within the company and with its affiliates. Third party disclosure is not a forgone conclusion made by customers. Adopting different consent standards for disclosure for affiliates and third parties is not discriminatory because it reflects Congress' intent and it meets customer expectations.

Respectfully Submitted,

The Southern New England Telephone Company

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March 17, 1997


CERTIFICATE OF SERVICE

I, Melanie Abbott, hereby certify that a copy of the foregoing Comments of The Southern New England Telephone Company, CC Docket No. 96-115, Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, were hand-carried on this the 17th day of March, 1997, to those listed below.

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